

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Establishment-Director General, Drugs & Copy right, Drugs Control Administration, Hyderabad- withdrawing the powers under Drugs and Cosmetics Act, 1940 and relieving of Sri.G.A.Prasad Anil Kumar from the O/o Drugs Control Administration-Orders issued.

HEALTH, MEDICAL AND FAMILY WELFARE (L2) DEPARTMENT

G.O.Ms.No 262.

Dated 11-11-2009
Read the following

1. G.O.Ms.No.421, Health, Medical and Family Welfare (S1) 29th July 2003. Published in A.P.Gazette Part-I, extra ordinary No.322 dated 30.7.2003.
2. From Sri.G.A.Prasad Anil Kumar representation dated 08-07-2005 received through the Project Director APSACS Rc.No.2143/AIDS/Estt/2003-05 dated 07-07-2005.
3. Director General, Drugs and Copy rights, DCA, Hyderabad proceedings Proc.Rc.No.7451/E1/2005 Dated 30.08.2005.
4. Director General, Drugs and Copy rights, DCA, Hyderabad proceedings Proc.Rc.No.7451/E1/2005 Dated 30.12.2005.
5. From Sri.G.A.Prasad Anil Kumar representation through Hon'ble Minister for Fin.&Health vide C.No.2297/M(Fin.F/2005 dated 7.11.2005.
6. Govt.Memo No.14813/L2/2005-06 Dated 29.03.2006
7. From Sri.G.A.Prasad Anil Kumar representation through Sri.P.Shasidhar Reddy MLA through Hon'ble CM vide CMP No.8237/CMP/2006 dated 25.08.2006.
8. Govt.Memo No.16734/L2/2006-1 Dated 04-10-2006.
9. Project Director, APSACS proceedings Proc.No.2143/AIDS/Estt/2003-06 Dated 16.10.2006
10. From Sri.G.A.Prasad Anil Kumar, Drugs Inspector, AP State AIDS Control Society, representation dated 24-11-2007 received through Endt.No.406/Min(AAPVVP&HS)/07 dated 28-11-2007.
11. Government Memo No.23968/L2/2007-1 dated 10.12.2007
12. From the Director General, Drugs and Copy rights, DCA, Hyderabad Letter Rc.No.73451/E1/2005 dated 18.12.2007.
13. G.O.Rt.No.113 Health, Medical and Family Welfare (L2) Dated 30-01-2008.
14. From the Director General, Drugs and Copy rights, DCA, Hyderabad Letter Rc.No.7451/E1/2005 Dated 29.02.2008, 26-03-2008 and 09-06-2008.
15. From Sri.G.A.Prasad Anil Kumar O/o Drugs Control Administration, Hyderabad Rc.No.Spl/GAPAK/DI/GZ/HD/2008 Dated 25-06-2008
16. From the Director General, Drugs and Copy rights, DCA, Hyderabad Letter Rc.No.7451/E1/2005 Dated 11.9.2009.
17. Memo HM&FW No.4084/L2/2008 Dated 01-09-2009 & 08.9.2009.
18. Memo HM&FW No.4084/L2/2008 Dated 17-09-2009
19. Memo HM&FW No.4084/L2/2008 Dated 30-09-2009
20. Project Director, APSACS Letter No.2143/AIDS/Estt/2003-07 Dated 28.11.2007. addressed to the DG, DCA.
21. Director General, Drugs and Copy rights, DCA, Hyderabad proceedings Proc.Rc.No.7451/E1/2005 Dated 03.02.2009.

Order:

In the reference 1st read above, orders were issued posting Sri.G.A. Prasad Anil Kumar, Inspector of the A.P.Pharmacy Council, Hyderabad as Drugs Inspector (Blood Safety) at AP State AIDS Control Society (on contract basis) duly notifying him as Drugs Inspector (Blood Safety) under NACO guidelines to inspect Blood banks for the entire state of Andhra Pradesh in performing his duties in APSACS. He worked as Drugs Inspector (B.S) w.e.f.01-08-2003 to 30.08.2005.

Based on the reference 2nd above and the subsequent correspondence, the Director General, Drugs and Copy rights, DCA, Hyderabad appointed Sri. G.A.Prasad Anil Kumar as Drugs Inspector in DCA on contract basis and on consolidated pay vide proceedings under reference 3rd (dated 30.08.2005). Subsequently the DG, DCA issued new proceedings under reference 4th (30.12.2005) cancelling his earlier orders under reference 3rd and further stated that Government also rejected the proposal for his notification as Drugs Inspector in the A.P.Gazette.

Again in the reference 6th and 8th read above Government upon examination of Sri.G.A.Prasad Anil Kumar's two representations- reference 5th (through Hon'ble Minister for Fin.&Health vide C.No.2297/M(Fin.F/2005 dated 7.11.2005) and 7th read above (through Sri.P.Shasidhar Reddy MLA through Hon'ble CM vide CMP No.8237/CMP/2006 dated 25.08.2006) did not agree to his request for continuing him as Drugs Inspector on contract basis in DCA and also rejected to relax the provisions of G.O.Rt.No.622 HM&FW (L2) dated 28.07.2004 in case of single individual.

Subsequently, based on proceedings of Project Director under reference 9th above Sri.G.A.Prasad Anil Kumar was taken afresh as Drugs Inspector (B.S) by the APSACS on contract basis and on a consolidated remuneration of Rs.8,000.00 and he reported to duty on 20-10-2006.

Subsequently vide reference 13th (dated 30-01-2008), the Government accorded necessary permission for appointing Sri.G.A.Prasad Anil Kumar, Drugs Inspector (Blood Safety) APSACS on deputation basis at Drugs Control Administration with a consolidated pay of Rs.9,000/- per month in the existing temporary vacancy for a period of one year or till the filling up of leave vacancy on regular basis which ever is earlier.

In the reference 14th (29.02.2008, 26-03-2008 and 09-06-2008) read above, the Director General, Drugs and Copy rights, Drugs Controls Administration (DG, DCA) requested for new notification appointing him as a Drugs Inspector for the entire state of Andhra Pradesh, as his present powers as Drugs Inspector (B.S) under G.O.Ms.No.421 are restricted to inspect Blood Banks only.

In the reference 15th (25-06-2008) read above, Sri.G.A.Prasad Anil Kumar made a correspondence directly to the Principal Secretary (Health) with out following due procedure and claimed that in the reference 13th read above, he was appointed as Drugs Inspector in DCA on deputation in regular leave vacancy for a period of 1 year and has been working since 01.02.2008. He further submitted that he was a regular employee of APSACS appointed in the regular vacancy and was notified as Drugs Inspector to perform the duties in APSACS and requested the Government for modification of earlier notification for his performance as a Drugs Inspector on par with Drugs Inspectors in DCA.

Regrettably the Government was not aware of the communication -the reference 20th read above dated 28.11.2007 between the Project Director APSACS and the Director General, Drugs and Copy right DCA that under NACP III (National Aids Control Programme) the post of Drug Inspector has been re-designated as Quality Manager with a mandatory qualification of B.Pharm with 5 years of experience in Drugs Control Administration of the state government. Further in the same communication the PD APSACS informed the DG, DCA that the Quality Manager post is a regular post to be filled in by deputation and the present incumbent Sri.G.A.Prasad Anil Kumar does not have 5 years requisite experience. For reasons not known the O/o DCA did not provide these details in their comments Rc.No.73451/E1/2005 dated 18.12.2007, before issuing the individuals' deputation orders vide G.O.Rt.No.113 Health, Medical and Family Welfare (L2) Dated 30-01-2008.

Further Government examined the Director General, Drugs and Copy rights, DCA Hyderabad proceedings the reference 21st read above -Proc.Rc.No.7451/E1/2005 Dated 03.02.2009 (without giving a copy to the Government) and has been found to have issued without the concurrence of Government. This is a serious contravention of the G.O.Rt.No.113 Health, Medical and Family Welfare (L2) Dated 30-01-2008 and hence annulled as invalid order.

In the instant case, the prayer (ref.15) of the individual has been examined in detail. In the reference 13th Government accorded permission for the deputation of the individual with a consolidated pay in the existing temporary vacancy but was not on regular vacancy as claimed falsely by the individual. Further the individual was a contractual employee while the individual falsely claimed as a regular employee. In the case involving Union Public Service Commission (UPSC) Vs.Girish Jayanti Lal Vaghela and others (C.A.No.933 of 2006) the Supreme Court held that an employee working on contract in a government department was not a government servant and was not entitled to the benefits available to a regular employee. Hence his claim to hold the post of Drugs Inspector in DCA on par with other Government Servant Drug Inspectors working in Drugs Control Administration will not stand and can not be entrusted statutory regulatory powers under Drugs and Cosmetics Act, 1940 compromising public health and safety. Further as per the G.O.Rt.No.113 Dated 30-01-2008 the deputation was limited for a period of one year or till the filling up of leave vacancy on regular basis which ever is earlier, thus the deputation permitted was already expired by 30.01.2009.

As per rule 3 of the Special rules for the A.P. Drugs Control Administration Service Rules, 1996 issued vide G.O.Ms.No.339 HM&FW Deptt dated 28.8.1996, the method of appointment for the post of Drugs Inspector is (a) appointment by transfer of Junior Analyst in the A.P.Drugs Control Administration Sub-ordinate Service or (b) by Direct recruitment. There is no provision for appointment of Drugs Inspector by deputation. Sri.G.A.Prasad Anil Kumar was not recruited as per these existing rules. Further Supreme Court judgement in the case C.A.No.933 of 2006 held that an employee working on contract in a government department was not a government servant and was not entitled to the benefits available to a regular employee. Hence the proposal of the Director General, Drugs and Copy rights, Drugs Control Administration vide reference 11 to issue a notification vesting powers of a Government servant-Drugs Inspectors involving statutory regulatory duties will be a clear violation of existing rules and statute. Therefore the proposal is not feasible.

From the above it is very clear that the individual has tried a number of times to get appointed as Drugs Inspector under Drugs control Administration illegally through back door. It is reiterated that the DG, DCA vide his proceedings under reference 4th read above,

Government in its memo reference 6th and 8th read above rejected his request to continue / appoint as Drugs Inspector.

Once again the Government after careful examination of the issue in the light of rules and Government orders in force, here by order that the deputation of Sri.G.A. Prasad Anil Kumar stands terminated and relieved with immediate effect. Further the powers conferred on him to inspect Blood banks vide reference No.1 is withdrawn forthwith.

It is further ordered that

1. Director General, Drugs and Copy rights, DCA, Hyderabad proceedings Proc.Rc.No.7451/E1/2005 Dated 03.02.2009 stands annulled forthwith.
2. The Director General, Drugs and Copy rights, Drugs Control Administration shall not incur any expenditure on his services from 11.11.2009 and submit action taken report on this order on 11.11.2009 positively.
3. The Project Director, AP State AIDS Control Society, Hyderabad is requested to take further necessary action in the matter by publishing the following notification in Government extra ordinary gazette.

NOTIFICATION

In the exercise of the powers conferred by sub-section(1) of Section 21 of the Drugs and Cosmetics Act 1940(Act No:23 of 1940), the Governor of Andhra Pradesh here by withdraws the appointment of Sri.G.A.Prasad Anil Kumar to be Drugs Inspector (Blood Safety) with immediate effect.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

To

1. The Director General, Drugs & Copy right, Drugs Control Administration, Hyderabad.
2. Sri.G.A.Prasad Anil Kumar C/O The Director General, Drugs & Copy right, Drugs Control Administration, Hyderabad- The DG, DCA is requested to serve the order and submit the acknowledgement to the Government.

Copy to:

1. The Project Director, AP State AIDS Control Society, Hyderabad.
2. The FA, HM&FW Dept. AP Secretariat, Hyderabad.
3. The Registrar, Andhra Pradesh Pharmacy Council, Hyderabad.
4. The Commissioner, Printing Stationary & Stores Purchase (PW), Chanchalguda, Hyderabad (with a request to publish the notification in Andhra Pradesh –Extra Ordinary Gazette) and supply 200 copies.
5. The P.S to CM.
6. The Accountant General, Andhra Pradesh, Hyderabad.
7. The Pay and Accounts Officer, Andhra Pradesh, Hyderabad
8. The P.S to Minister (HM&FW)
9. The P.S to Principal Secretary to Government, HM&FW Department
10. SF/SC

// FORWARDED:: BY ORDER//

SECTION OFFICER